

**Notice of Allowability**

Application No.

10/500,415

Examiner

MURALI DEGA

Applicant(s)

BOURIANT ET AL.

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed on 18 January 2011.
2. ☒ The allowed claim(s) is/are 50,52-67 and 99-101.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application                     |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance             |
|  | 9. <input type="checkbox"/> Other _____   |

/MURALI DEGA/  
Examiner, Art Unit 3621

## **DETAILED ACTION**

### ***Acknowledgements***

1. This Office action responds to the amendments filed on 18 January 2011, in response to the Non-Final office action mailed on 10 November 2010.
2. Claims 50, 52-67 and 99-101 are pending.
3. Claims 50, 52-67 and 99-101 have been examined and are allowed.

## **EXAMINER'S AMENDMENT**

4. An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.
5. Authorization for this examiner's amendment was given in a telephonic interview with Ms. Janet D. Hood (USPTO Registration No. 61,142) on 23 March 2011 at 2.00 PM.
6. The Application has been amended eight (8) times as follows:
  - a. In claim 50, line 10 after "wherein a", delete "control solution" and replace it with --solution--
  - b. In claim 50, lines 14-15 after "wherein the", delete "control solution" and replace it with --solution--
  - c. In claim 50, line 16 after "wherein the", delete "control solution" and replace it with --solution--

- d. In claim 50, line 31 after "wherein the", delete "control solution" and replace it with --solution--
- e. In claim 101, line 10 after "wherein a", delete "control solution" and replace it with --solution--
- f. In claim 101, lines 14-15 after "wherein the", delete "control solution" and replace it with --solution--
- g. In claim 101, line 16 after "wherein the", delete "control solution" and replace it with --solution--
- h. In claim 101, line 32 after "wherein the", delete "control solution" and replace it with --solution--

***Reasons for Allowance***

- 7. The following is the Examiner's statement of reasons for allowance:
- 8. In view of the amendments made to claim 50 and 101, in Remarks filed on 18 January 2011, rejection of claims 50, 52-67 and 99-101 under 35 U.S.C. § 101 in paragraphs 5, 6 and 7 of Non-final office action with paper number 20101019 mailed on 10 November 2010, is withdrawn.
- 9. Rejection of claims 50, 52-67 and 99-101 under 35 U.S.C. § 112 2<sup>nd</sup> Paragraph in paragraph 10 of Non-final office action with paper number 20101019 mailed on 10 November 2010, is withdrawn as the arguments presented in Remarks filed on 18 January 2011, are persuasive.

10. Regarding the claimed terms, the Examiner notes that a "general term must be understood in the context in which the inventor presents it." *In re Glaug* 283 F.3d 1335, 1340, 62 USPQ2d 1151, 1154 (Fed. Cir. 2002). Therefore the Examiner must interpret the claimed terms as found on pages 1-16 of the original specification. Clearly almost all the general terms in the claims may have multiple meanings. So where a claim term "is susceptible to various meanings, . . . the inventor's lexicography must prevail . . . ."

*Id.* Using these definitions for the claims, the claimed invention was not reasonably found in the prior art.

11. The best available prior art is the combination of U.S. Publication No. (US 2002/0107809) to Biddle et al. ("Biddle"), Schneck et al. (US 2003/0172034) ("Schneck"), Eng et al. (US 2002/0169725) ("Eng").

12. With respect to claims 50 and 101:

13. Biddle discloses managing license to restrict use and redistribution of licensed products based on a subscription model.

14. Biddle does not disclose graduated, usage based automatic licensing of multifunctional and/or expandable software products. Also, Biddle does not disclose multifunctional and/or expandable software products being integrated to form a Manufacturing Execution System (MES) by the systems integrator.

15. However, Schneck discloses access control to data through rules enforced by a tamper detection mechanism but does not teach graduated automatic licensing of MES.

16. Eng teaches run-time allocation of licenses node by node and redistribution of licenses in case of a node failure.

17. Even though the combination of Biddle, Schneck and Eng teach licensing and access control through licenses but the combination does not disclose graduated, usage based automatic licensing of multifunctional and/or expandable software products integrated to form a Manufacturing Execution System (MES) by the systems integrator.

18. Further, the missing claimed elements from Biddle, Schneck and Eng are not found in reasonable number of references. Yet, even if the missing claimed elements were found in a reasonable number of references, a person of ordinary skill in the art at the time the invention was made would *not* have been motivated to include these missing elements in an embodiment in Biddle because software integration and graduated automatic licensing would not be an intended purpose of the Biddle's system of restricting usage and redistribution.

19. Independent claims each recite patentable subject matter and as such all pending claims are allowed.

### ***Conclusion***

20. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

21. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to MURALI DEGA whose telephone number is (571)270-

5394. The Examiner can normally be reached on Monday to Thursday 7.00AM to 5.30 PM.

22. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew J. Fischer can be reached on 571-272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

23. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Murali K. Dega/  
Art Unit 3621  
March 23, 2010

/ANDREW J. FISCHER/  
Supervisory Patent Examiner, Art Unit 3621